

NOTES ON UNITED STATES CITIZENSHIP

Prepared by Frederic W. Cook,
Secretary of the Commonwealth of Massachusetts,
For the Use of City and Town Clerks
and Election Commissioners.

(Corrected to December 1, 1939)

I. CITIZENSHIP DEFINED.

1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside."

(U. S. Constitution, Art. XIV, Sec. 1.)

2. "All persons born in the United States and not subject to any foreign power are declared to be citizens of the United States."

(U. S. Rev. Stat., Sec. 1992.)

II. CITIZENSHIP OF CHILDREN BORN ABROAD.

1. OF AMERICAN CITIZEN PARENTS.

A. IF BORN PRIOR TO MAY 24, 1934.

If the father was a citizen at the time of the birth of such child and had at some time resided within the United States such child became a citizen at birth.

To retain the protection of citizenship such child MUST reside within the United States prior to reaching the age of eighteen years:-

or, if continuing to reside abroad, MUST upon reaching the age of eighteen years, record at an American Consulate his or her intention to become a resident of the United

States and to remain a citizen thereof,

and

MUST upon reaching the age of twenty-one years take the oath of allegiance.

Citizenship does not descend to children whose fathers never resided in the United States.

(United States Code Title 8, Section 6, as it appeared prior to its amendment in May, 1934.)

B. IF BORN AFTER MAY 24, 1934.

If father or mother were citizens at the time of the birth of the child and one of such parents, if a citizen, had at some time prior to such birth resided within the United States such child became a citizen at birth, BUT

"In cases where one of the parents is an alien, the right of citizenship shall not descend or be retained UNLESS

The child comes to the United States before the age of thirteen and resides therein for at least

five years continuously immediately previous to his eighteenth birthday, AND UNLESS, within six months after the child's twenty-first birthday, he or she shall take an oath of allegiance to the United States of America as prescribed by the Bureau of Naturalization."

(United States Code Title 8,
Section 6, as amended by
Act of May 24, 1934.)

2. OF ALIEN PARENTS.

"A child born without the United States of alien parents shall be deemed a citizen of the United States by virtue of the naturalization of or resumption of American citizenship by the father or mother:

PROVIDED,

That such naturalization or resumption shall take place during the minority of such child:

AND PROVIDED further,

That the citizenship of such minor child shall begin five years after such minor child begins to reside permanently in the United States." Such five year period must expire before child becomes

twenty-one.

(United States Code Title 8, Section 8,
as most recently amended by Act of May
24, 1934.)

Note. The five year period is to be calculated
from the time when the child first began
actually to make his or her permanent
residence in this country, whether such
time was prior to the date of the father's
or mother's naturalization or afterwards.
If the child has actually resided in the
United States the five year period at the
time of the parent's naturalization the
child then and there becomes a citizen.

(Opinion Massachusetts Atty. Gen.,
November 5, 1935.)

Such a residence in this country must
begin before the child is sixteen.

ADOPTED CHILDREN.

Adoption has no effect on citizenship
status. An alien child adopted by an
American citizen remains an alien until
he himself is naturalized. An American
born child adopted by an alien does not
lose his status of American citizenship.

(278 Fed. 174 U.S. Circuit Court of
Appeals.)

STEP CHILDREN

Do not acquire citizenship through either step parent.

III. CITIZENSHIP BY NATURALIZATION OR MARRIAGE.

1. ALIEN MEN MARRIED TO AMERICAN CITIZENS.

AFTER SEPTEMBER 22, 1922 OR WHOSE WIVES BECAME NATURALIZED OR RESUMED CITIZENSHIP AFTER THAT DATE.

If the marriage or the naturalization of the wife occurs after the above date, only three year residence is required before husband can be naturalized.

(United States Code Title 8, Section 368.)

2. ALIEN WOMEN MARRIED TO AMERICAN CITIZENS.

IF THE MARRIAGE OR THE NATURALIZATION OF THE HUSBAND OCCURRED -

A. PRIOR TO SEPTEMBER 22, 1922 (From 1855)

Alien wife became a citizen at the time of the marriage or at the time of the naturalization of her husband.

(R. S. 1994, Act of Mar. 2, 1907.)

B. BETWEEN SEPTEMBER 22, 1922 AND MAY 24, 1934.

One year residence required before alien wife can be naturalized.

(U. S. Stat. Ch. 411, Act of Sept. 22, 1922.)

C. AFTER MAY 24, 1934.

Three year residence required before alien wife can be naturalized.

(U. S. Code, Title 8, Sec. 368.)

Note. Prior to September 22, 1922, an alien woman who had acquired citizenship through marriage or naturalization of her husband retained her citizenship after the termination of the marital status IF she remained in the United States. If she resided abroad it was necessary for her to register as an American citizen before an American Consul, within one year of the termination of her marital status, in order to retain her citizenship.

3. WOMEN CITIZENS MARRIED TO ALIENS.

A. PRIOR TO MARCH 2, 1907.

A woman citizen retained her citizenship after her marriage to an alien if she continued to reside within the United States.

(In re Fitzroy (1925) 4 Fed. 541.)

(Opinion Mass. Atty. Gen. Vol. 5, page 680.)

B. BETWEEN MARCH 2, 1907 AND SEPTEMBER 22, 1922.

1. By marriage between the above dates,

a woman citizen took the nationality of her alien husband and lost her American citizenship.

(34 U. S. Statutes 2534, sec. 3,
Act of Mar. 2, 1907.)

2. If her alien husband became a citizen she regained her citizenship.

C. PRIOR TO SEPTEMBER 22, 1922.

If an American woman married to an alien was widowed or divorced from her alien husband, she resumed her citizenship by continuing to reside within the United States.

(34 U. S. Statutes 2534, sec. 3,
Act of Mar. 2, 1907.)

D. AFTER SEPTEMBER 22, 1922.

1. If widowed or divorced after September 22, 1922, she must be naturalized to regain her citizenship.

(U. S. Code Title 8, sec. 9, 42
U. S. Statutes, Chap. 411.)

2. If her alien husband became a citizen after September 22, 1922 she did not regain her citizenship thereby.
3. A woman citizen married to an alien retained her citizenship unless she made a formal renunciation of her

citizenship before a court having jurisdiction over naturalization of aliens.

(U. S. Code Title 8, sec. 9, Act of Mar. 3, 1931.)

IV. CITIZENSHIP OF VETERANS.

Any United States citizen who prior to the date when this country declared war (April 6, 1917) took the oath of allegiance to any foreign king or state, whether as an incident of enlistment in the military or naval forces of such state or not, lost his United States citizenship.

(Opinions Mass. Atty. Gen., Vol. 5, page 639.)

Any citizen of the United States who after the date when this country declared war (April 6, 1917) enlisted in any allied foreign army or navy and as an incident of such enlistment took an oath of allegiance to such foreign king or state, could not and did not lose his citizenship or his right to vote.

(Opinions Mass. Atty. Gen., Vol. 5, page 639.)